



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO CANADA CONTRACTING COMPANY, INC.

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Waste Management Board and Canada Contracting Company, Inc. for the purpose of resolving certain alleged violations of the Virginia Waste Management Act and the Virginia Hazardous Waste Management Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1401 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Facility" means the property located at 4000 Portugee Road in Sandston (Henrico County), Virginia, where the Canada has offices and conducts its day-to-day operations.
6. "Canada" means Canada Contracting Company, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. “Order” means this document, also known as a Consent Order.
8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “VHWMR” means the Virginia Hazardous Waste Management Regulations 9 VAC 20-60-12 et seq.

SECTION C: Findings of Fact and Conclusions of Law

1. On February 8 and 15, 2006, DEQ staff conducted an inspection of the Canada facility located at 4000 Portugee Road, in Sandston, Virginia. During the inspection, there were multiple containers ranging from 5 to 55 gallons in volume. Some of the containers appeared to hold petroleum products, one container had a flammable label, one container was labeled “Paint”, and another three were labeled “Oil”. The Facility representatives stated that some of the containers also contained used oil. Several of the containers appeared rusty and one was partially open. The DEQ inspector also observed several areas of ground adjacent to the diesel fuel aboveground storage tank that appeared to be contaminated with petroleum.
2. After the DEQ inspection, Canada tested the contents of the containers in March 2006. Analytical results indicated that one drum contained waste corrosive cleaner, one drum contained kerosene contaminated with water, one drum contained paints and paint solvents consolidated from the Facility and other job sites, and the remaining drums contained used oil and oil-contaminated gravel and soil from the cleanup of the contaminated areas near the aboveground storage tank.
3. The corrosive cleaner, kerosene and water, and paints and paint solvents contained in some of the drums are hazardous wastes, as specified in 40 CFR §261.21 and §261.22.
4. Canada did not fulfill the following regulatory requirements for the generation and storage of hazardous waste and used oil described in Paragraphs C.1 through C.3, above:
 - a. Canada did not determine whether the solid waste generated was hazardous, as required by 40 CFR §262.11;
 - b. Canada did not keep containers used to store used oil in good condition and prevent leaks, as required by 40 CFR §279.22(b). Canada also did not label containers used to store used oil, as required by 40 CFR §279.22(c);
 - c. Canada did not stop, contain, and clean up the release of used oil to the environment upon the detection of the release, as required by 40 CFR 279.22(d)(1) through (4).
5. On April 26, 2006, Notice of Violation No. 2006-04-PRO-601 (“NOV”) was issued for the violations described in Paragraph 4, above.

6. A meeting to discuss the violations listed in the NOV was held between DEQ staff and Canada representatives on May 18, 2006. Canada has obtained an EPA ID number to ship the containers of hazardous waste to a hazardous waste disposal facility via a permitted hazardous waste transporter.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455(F), orders Canada, and Canada voluntarily agrees, to pay a civil charge of \$11,760 within 30 days of the effective date of the Order in settlement of the violations and alleged violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia" and shall be delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Either on a transmittal letter or as a notation on the check, Canada shall include its Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Canada for good cause shown by Canada, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Canada by DEQ on April 26, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Canada admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Canada consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Canada declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or

required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

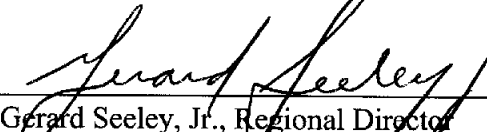
6. Failure by Canada to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Canada shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Canada shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Canada shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Canada. Notwithstanding the foregoing, Canada agrees to be bound by any compliance date which precedes the effective date of this Order.

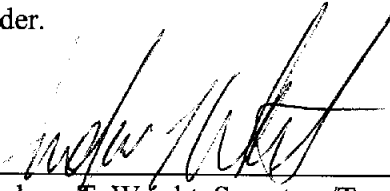
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Canada. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Canada from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Canada voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 9/26/06


Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Canada voluntarily agrees to the issuance of this Order.

Date: 8-16-06


By: 
Andrew T. Wright, Secretary/Treasurer
Canada Contracting Company, Inc.

Commonwealth of Virginia
City/County of Warren

The foregoing document was signed and acknowledged before me this 16 day of

August, 2006, by ANDREW T. WRIGHT, who is
(Name)

SEC/TREAS of Canada, on behalf of the Corporation.
(Title)


Notary Public

My commission expires: 09/30/08